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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,916	09/18/2001	Matthew J. Chalek	7097.02.01	9399

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EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 03/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955916

Applicant(s)

Matthew Chalek

Examiner

Michael Brown

Group Art Unit

3764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-22 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-22 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-10, 18, and 21-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hardy.

Hardy discloses in figures 1-4 a therapeutic wrap comprising an elongated flexible strip 3, a sheet of disposable and reusable material 7 and a plurality of attachment elements (18,18'). The strap material is latex free (made of a woven cloth). The pocket is position proximate a mid portion or the second end (since there are two pockets, one is proximate the mid section and the other is proximate the second end). The pocket has one end open (to receive packet 20). The strap is loop and secured to form a sleeve with overlapping of the end portions (the cuff is a sleeve that has overlapping end portions).

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 11-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy in view of Hubbard, along with Delk.

Hardy discloses in figures 1-4 a therapeutic wrap comprising woven cloth fibers. However, Hardy does not disclose the fibers being polypropylene. Hubbard teaches in figures 1-2 a therapeutic wrap comprising a strip 10 that has a covering 32 that is formed of a woven cloth of polypropylene fibers (col. 1, lines 48-53). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the polypropylene fibers as taught by Hubbard could be substituted for the polyester fibers as disclosed by Hardy because the polypropylene fibers are durable, strong and they allow permeation of air or moisture therethrough. These fibers could be used in either the pocket or the flexible strap as taught by Hubbard. However, Delk also teaches in figure 5 a therapeutic wrap comprising a pocket 12 comprising polypropylene fibers (outer layers 32, 34 are made of polypropylene).

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McNally discloses a tennis and elbow band. Although this reference discloses structural limitations recited in the claims, it was not used to reject any claims, in the first office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (703) 308-2682.

M. Brown
February 23, 2002

A handwritten signature in black ink, appearing to read "Michael A. Brown". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Brown".

Michael A. Brown
Primary Examiner